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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,900	01/18/2002	Jonathan Edwards	1011/1	9126
58293 7590 10/22/2008 FORTKORT & HOUSTON P.C. 9442 N. CAPITAL OF TEXAS HIGHWAY ARBORETUM PLAZA ONE, SUITE 500 AUSTIN, TX 78759				
EXAMINER				
POND, ROBERT M				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
10/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/052,900

Applicant(s)

EDWARDS, JONATHAN

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

All pending claims 1-11 were examined in this non-final office action necessitated by new grounds of rejection.

Response to Arguments

Applicant's arguments, see Remarks, filed 27 May 2008, with respect to the rejection(s) of claim(s) 1-11 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Barnes. Arguments based on Gardner now removed are rendered moot.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- 1. Claims 2 and 9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The Applicant is claiming software and data lacking computing structural specificity necessary for execution. Examples: access interface, web documents, web server, decision engine, portal.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2. Claims 2 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

The Applicant is claiming software and data lacking computing structural specificity necessary for execution. Examination was based on the assumption that software and data is embodied within computing structures to support execution by a computer or processor.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 3. Claims 1-11 are rejected under 35 USC 102 (b) as being anticipated by Barnes (US 5,970,475).**

Barnes teaches all the limitations of claims 1-11. For example, Barnes discloses an electronic procurement system and methods for trading partners. See at least abstract; Fig. 3; col. 1-col. 4. Barnes further discloses:

- Regarding claim 3. accessing a database containing dynamic elements of an on-line catalog, file elements including items suppliable by a vendor; supplier catalog server uses Active Server Pages to dynamically create HTML catalog pages using data from its resident SQL Server database. See at least col. 19, lines 52-58.
- Regarding claim 3. constructing an electronic catalog having one or more pages by selecting elements to be included in the pages, and generating commercial terms applicable to the included elements, where the selecting and generating steps are performed in accordance with contract terms between the purchasing entity and the vendor; supplier catalog server uses Active Server Pages to dynamically create HTML catalog pages using data from its resident SQL Server database. By evaluating the buyer's profile, the Supplier Catalog Server displays catalog information and pricing specific to the buyer's organization. See at least col. 19, lines 52-58. profile specifies level of authorization for approval of acquisitions of goods/services, the catalog containing information regarding supplier's goods/services based on the organization's profile submitted to the supplier and negotiated agreement between the partners. See at least col. 4, lines 5-26.
- Regarding claim 3. providing electronic access to the catalog to users authorized by the purchasing entity; procurement system serves to authorized users to display the catalog. See at least col. 8, lines 36-38.

- Regarding claim 3. accepting browsing commands from the user to display catalog pages selected by the user; uses web browser to search and make selections. See at least col. 7, lines 25-43; col. 8, lines 36-39; col. 18, line 42-45.
- Regarding claim 3. providing an electronic shopping basket function configured to hold the identification of items chose by the user from the displayed catalog pages; makes purchase selection added to requisition request. See at least Fig. 11; col. 18, lines 47-67; col. 22, lines 46-60.
- Regarding claim 3. sending contents of the electronic shopping basket to a vendor for fulfillment of the identified items to the purchasing entity in accordance with the contract terms; purchase order sent electronically to the supplier. See at least col. 18, lines 47-67.
- Regarding claim 3. and collecting a fee from the purchasing entity that is based on the value of the contents of the electronic shopping basket. ACH charges buyers transaction fees based on purchase orders. See at least col. 9, lines 60-65.
- Regarding claims 1-2, 4, 5, 7-11. Rejections are based on disclosures and other supporting subject matter disclosed by Barnes as noted above.
- Regarding claim 6. Rejection is based on disclosures and other supporting subject matter disclosed by Barnes as noted above. Barnes further discloses:

- tracking. monitoring, logging and audit trails. See at least Fig. 24; col. 9, line 9.
- reporting. reports module. See at least Fig. 24; col. 9, lines 7-8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert M. Pond/
Primary Examiner, Art Unit 3625
October 20, 2008